رابطة العالم الإسلامي

الأمانة العامة

الإدارة العامة للمؤتمرات والمنظمات

CURRENT STATUS OF MUSLIM MINORITY

واقع الأقليات المسلمة

إعداد

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محامي الجمعيات الإسلامية في قضية المسجد البابري - الهند

مقدم إلى مؤتمر مكة المكرمة الرابع عشر

حقوق الإنسان بين الشريعة الإسلامية والمواثيق الدولية

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رابطة العالم الإسلامي

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CURRENT STATUS OF MUSLIM MINORITY

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1- Current status of Muslim Minority in general is such a vast topic that it can not be possible to comprehend the same in a short paper to be presented in any conference. However an attempt is being made to cover the status of Muslim Minority in some of the important countries of the world.

2- Starting from the United States of America it can be said that the problems faced by the Muslim Community after the 9-11 Episode are being reduced by the passage of time. Some groups of Muslims, comprising of India, Pakistan and some other countries have started socio-political efforts through some Congress men and Senators etc. and remarkable success was achieved by them when they succeeded in making effective representation to the United States Administration against the grant of Visa to Mr. Narendra Modi, Chief Minister of Gujrat who is responsible for the massacre of Muslims in 2002 riots of Gujrat. Recently also when some Hindu organizations based in United States of America had invited President of Bhartiya Janta Party Mr. Raj Nath Singh to renew their efforts for the grant of Visa to Mr. Narendra Modi these very Muslim organizations had again succeeded in pursuing the United States administration not to grant the said Visa to Mr. Modi. Accordingly the efforts of Hindu chavinistic organizations appear to have again remained unsuccessful. During my recent visit to the United States of America in June, 2013 I had occasion to meet about 15 representatives of the Congress or House of Representatives (Senators) or their representatives and I found great interest in the said Congress men for the Religious, Cultural and Human Rights of Minorities specially Muslims. Apart from the Cultural, Educational, Religious and Human Rights guaranteed under the Charter of United Nations and International Covenent of Human Rights there is a special law known as International Religious Freedom Act, 1998 through which U. S. Commission on International Religious Freedom was constituted as an entity separate and distinct from the State Department which gives its recommendations to the President of United States or Secretary of State and Congress. These recommendations are based on the standards found in the Universal Declaration of Human Rights and

other International Charters / Declarations. Annual Report 2013 of the United States Commission on International Religious Freedom gives information about some of the countries where Muslims are in Minority specially in relation to China, North Korea, Vietnam, Cuba, India, Laos, Russia, Burma, England, France and Germany etc.

3- Regarding Burma the aforesaid 2013 Report of United States Commission on International Religious Freedom gives us information that sectarian violence by societal actors targeting Muslims in Rakhine (Arakan) State is in addition to some times severe restrictions on worship, education and other religious ceremonies. According to the report of the said Commission 1982 Citizenship law of Burma denies Rohingya Muslims citizenship which in turn prevents access to Government Services, Educational opportunities for children, acceptance of marriages and the buildings of Religious venues and Schools. Local ordinances in Rangoon restrict public worship for Muslims to significant religious holidays. These Rohingya Muslims are denied citizenship because their ancestors allegedly migrated to Burma during British rule. Approximately 8 lakh Rohingya Muslims live in Burma concentrated mostly in Rakhine (Arakan) State and in 5 other cities. They continue to experience most severe forms of legal, economic, religious, educational and social discrimination and often they are to face killing of innocent Muslims. In June 2012 sectarian violence between ethnic Arakanese Buddhist and ethnic Rohingya Muslims led to hundreds of deaths and an estimated 1,00,000 internally displaced. Provincial police did not stop initial violence and supported ongoing attacks by both Arakenese groups and Buddhist monks on Rohingya villages and the denial of humanitarian access to Rohingya areas and camps. In October 2012, sectarian violence erupted again in dozens of coordinated attacks that resulted in beatings, deaths, rapes, the destructions of entire villages and additional displacement of Rohingya. Rohingya asylum seekers have been turned away from Bangladesh and Thailand, including being forcibly pushed back to sea by Thai military forces. Untold numbers have died attempting to seek refuge in these countries. Despite considerable international attention, the Burmese government, backed by a majority of popular opinion and groups promoting "Buddhist Natoinalism," continues to restrict humanitarian assistance, sanction clandestine violence through impunity and encourage refugee flows to other Southeast Asia countries.

4- Without citizenship, Rohingya Muslims lack access to secondary education in state-run schools, cannot be issued government identification cards (essential to receive government benefits) and face restrictions on freedoms of religion, association, assembly and movement. Reports by refugees indicate that many Rohingya are prevented from owning property, residing in certain townships, or serving as government officials. Muslims are restricted in the number of children they may have and have difficulties in obtaining birth certificates for newborns, particularly in the city of Sittwe. During 2012-13 the Burmese government maintained “Muslim Free Areas” in the Thndwe, Gwa and Taungup areas of Rakhine (Arakan) State.

5- Police often restricted the number of Muslims who could gather in one place, effectively banning public worship, religious ceremonies and education. In Rangoon and surrounding areas, Muslims are only allowed to gather for worship and religious preaching during major Muslim holidays. In December 2012, seven Muslims were arrested for holding a prayer service at a mosque without permission. Similar arrests were made in 2011. All those arrested were released after paying fines. In early 2013, police reportedly beat Muslims living near the Takeda mosque in Rangoon and later removed them from their homes.

6- It is almost impossible for Muslims to obtain building permits for either mosques or schools and unlicensed venues are regularly closed or destroyed. The government has, in recent years, ordered the destructions of mosques, religious centers and schools, including the Sufi Shahul Hamid Nagori Flag Post and Mosque in Insein during February 2012.

7- An estimated 3,00,000 Muslim Rohingya live in refugee camps in Bangladesh, Thailand and other Southeast Asian countries. They often live in precarious conditions and face discrimination, trafficking and other hardships. They also have been forcibly repatriated to Burma. Bangladesh has recently announced that it will go ahead with plans to repatriate Rohingya living in refugee camps but will not accept new asylum seekers.

8- Regarding China “Religious Freedom conditions for Uighur Muslim remain particularly acute as the Government broadened its efforts to discredit

and imprison religious leaders control the selection of clergy, ban certain religious gatherings and control the distribution of religious literature by members of these groups. The chinese Government also continues to harass, detain intimidate and debar attorneys who defend members of vulnerable religious groups.

9- The Chinese Constitution guarantees the freedom of religion, but protects only “normal” religious activities and does not explicitly protect the right of individuals to manifest their beliefs without state interference. While a growing number of Chinese citizens are allowed to practice their religion, the government tightly controls religious groups and actively harasses religious activity that it views as “superstitious,” a “cult,” a threat to national security or social harmony, or falling outside the so-called parameters of “normal ” religious practices. The majority of religious practice in China fall within these disfavored categories, creating large problems for the Muslims. While the Chinese government has signed the International Covenant on Civil and Political Rights, it has not ratified or fully applied it to its legal framework, particularly freedom of religion or belief.

10- The government continues to use law to restrict religious activity and manage religious groups. The Chinese government’s religious policy is governed by the National Regulations on Religious Affairs (NRRA), first issued in March 2005 and updated in 2007. The NRRA requires all religious groups to affiliate with one of seven government- approved associations and allows government control of every aspect of religious practice and related activities. The NRRA does allow registered religious groups to carry out some religious activities and charitable work. Registered religious communities can apply for permission to possess property, accept donations from overseas, conduct religious education and training and host inter-provincial religious meetings. The NRRA permits only “normal religious activity” and contains vague national security provisons that suppress the peaceful activity of unregistered religious groups, organizations deemed “cults,” and Uighur Muslims.

11- In <u>North Korea</u> conditions have not improved about human rights or religious freedom and severe religious freedom abuses continue. So also in <u>Vietnam</u> the government continues to expand control over all religious

activities, severely restrict independent religious practice and repress individuals and religious groups it views as challenging its authority. Serious religious freedom violations continue in Cuba also. Cuban Government actively controls and monitors religious practice through a restrictive system of laws and policies. Religious freedom abuses continue in Laos also. So also in Russia religious freedom conditions deteriorated further and the said deterioration included the application of laws on religious and non-governmental organizations violating rights of "non traditional" religious groups and Muslims.

12- The condition of Muslim Minority in England is better than other European countries specially France, Germany and Denmark etc. Even in Australia the condition is growing some what against Muslims but in most of these countries the assault is mainly on cultural and religious values of the Muslim community.

13- In 2011, national laws banning the wearing of full-face veils anywhere in public came into force in France and Belgium. Since then, Muslim women in both countries who wear such veils have been stopped by police, questioned and fined for violating these laws. In early 2012, Netherlands also was moving forward on enacting a full-face ban. This effort came to a halt when the Dutch Coalition government fell in April 2012. French and Belgiam courts have rejected constitutional and human rights challenges to the bans (most recently, the Belgian Constitutional Court in a December 2012 decision). A case concerning the French law is currently pending in the European Court of Human Rights. Covering one's face in public presents legitimate issues, including in certain circumstances the necessity of facial identification. Under international religious freedom standards, a justifiable limit on religious expression, including dress, must be narrowly tailored to achieve a specified permitted ground-public safety, public order. The 2011 French and Belgian laws appear to ban all face-covering garments in a neutral way. However, the public debate surrounding their enactment, their legislative history, their many exceptions-for garments required by law or regulation, for festivals and their enforcement make clear that they are directed at religiously-motivated face coverings worn by some Muslim women, specifically the Islamic 'burqa' and 'niqab'. This raises discrimination concerns. The French law also penalizes, with imprisonment

or very large fines. While seeking to address concerns about coercion, if too broadly applied this provision may raise questions of parental rights and freedom of choice.

14- The 2011 French full-face veil law followed legislation enacted in that country in 2004 that bans the wearing in all public schools of "conspicuous" religious symbols. This law was drafted to target the Islamic headscarf, but also prohibits the Jewish yarmulke, the Sikh turban and large Christian crosses. In 2008 the UN Human Rights Committee requested France to reconsider the 2004 law, but it remains in force. In Belgium, the Flemish region prohibits the wearing of visible religious symbols in its public schools, as does the municipality of Brussels. These restrictions limit educational opportunities for Muslim girls who wear headscarves and other affected students and limit their ability to integrate and advance in society.

15- In June 2012, a regional Appeal court in Germany ruled that doctors could be criminally prosecuted for performing religious circumcisions of male children. Muslim and Jewish groups condemned the decision as violating their religious freedom rights and in December the German parliament passed a law making clear that religious circumcision of male infants is permitted. The Norwegian ombudsman for children-an independent government body-has suggested that Muslims and Jews should adopt "a symbolic, non-surgical ritual" instead of infant male circumcision.

16- In 2009, Swiss voters and cantons approved a popular initiative to amend the Swiss federal constitution to ban the future construction of minarets. The amendment added a new sub-article to the constitution's article on church and state, which provides that "the building of minarets is prohibited." The Swiss government had opposed the ban as irreconcilable with human rights guarantees in the European Convention of Human Rights and the Swiss constitution, but voters passed it anyway.

17- According to the Council of Europe's Commissioner for Human Rights, local authorities in many European cities regularly find reasons to delay building permits for mosques. In some places , existing Muslim worship facilities are insufficient, particularly for Friday prayers, leading worshippers to have to pray outside. In Greece, there continues to be no

official mosque in Athens, making it the only EU capital without such a place of worship, despite the Greek parliament approving construction in 2011.

18- In recent years, the atmosphere of religious intolerance across Europe appears to be rising. In its 2012 report the Pew Forum on Religion and Public life found an over all rise of social hostilities based on religion throughout Europe, specially in Croatia, France, Europe, Germany, Greece and United Kingdom. In 2011 the same forum had found substantial increase in social hostilities based on religion in Bulgaria, Denmark, Russia, Sweden and United Kingdom.

19- India is the world's largest democracy with an estimated 1.22 billion population and has a deeply religious plural society. A country with a Hindu majority, India is estimated to have the third largest Muslim population in the world.

20- Though word 'Secular' did not appear in the Preamble of the Constitution of India but it was one of the key objective of our constitution to create a secular State. As observed by Hon'ble Mr. Justice Sawant & Hon'ble Mr. Justice Kuldip Singh in the famous S. R. Bomai case reported in 1994 (3) SCC page 1:-

"Secularism is a part of the basic structure of the Constitution. The relevant provisions of the Constitution by implication prohibit the establishment of a theocratic State and prevent the State either identifying itself with or favouring any particular religion or religious sect or denomination. The State is enjoined to accord equal treatment to all religions and religious sects and denominations. Whatever the attitude of the State towards the religions, religious sects and denominations, religion cannot be mixed with any secular activity of the State. In fact, the encroachment of religion into secular activities is strictly prohibited. The State's tolerance of religion or religions does not make it either a religious or a theocratic State. When the State allows citizens to practise and profess their religions, it does not either explicitly or implicitly allow them to introduce religion into non-religious and secular activities of the State. The freedom and tolerance of religion is only to the extent of permitting pursuit of spiritual life which is different from the secular life. The latter falls in the exclusive domain of the affairs of the State. (Paras 153, 146 148 and 149 – Conclusion VIII; Para 2)"

So the acts of a State Government which are calculated to subvert or sabotage secularism as enshrined in our Constitution, can lawfully be deemed to give rise to a situation in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. (Para 153 – Conclusion VIII; Para 2)

21- The community which is recognized as a minority based on religion has the right to establish and administer educational institutions of their choice. Article 30(1) of the Constitution of India declares this:-

"30. (1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice."

22- Religious freedom is guaranteed under Articles 25 and 26 of the constitution of India which provide as under:-

"**Article 25. Freedom of conscience and free profession, practice and propagation of religion**-(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindu."

"**Article 26. Freedom to manage religious affairs**-(1) Subject to public order, morality and health every religious denomination or any section thereof shall have the right-

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property ; and

(d) to administer such property in accordance with law."

23- India has an independent judiciary, independent media and a dynamic civil society. Additionally India has created several governmental bodies that monitor human rights violations and provide financial support for minority welfare programs. For example the National Commission of Minorities, established in 1992, makes recommendations to the national and state governments on the effective implementation of special protections for minorities provided in the national constitution and can investigate specific complaints made by an individual or community. In recent years, the national government and several state governments have taken positive steps to improve religious freedom, including increasing support for governmental bodies that provide financial support for minority groups and programs.

24- Despite these positive characteristics, India has seen periodic outbreaks of large-scale communal violence targeting religious minorities over the years, most notably against Muslims in Gujrat in 2002 which still impacts the religious and political landscape of the country.

25- In addition, problems that plague the Indian legal system generally-including low ratio of police and judges to the population and an overburdened and antiquated judicial system-hamper redress for victims for religiously-motivated crimes. As a result, the lack of penalties encourages the ongoing intimidation, harassment and occasional violence against religious minorities and fosters a climate of impunity.

26- February 2002 the state of Gujarat erupted in communal violence. In response to a train fire reportedly set by Muslims, Hindu mobs killed 1,200-2,500 Muslims, forced 1,00,000 or more people to flee and destroyed homes. India's National Human Rights Commission found evidence of premeditated killing by members of Hindu nationalist groups, complicity by state government officials and police in action.

27- In the last two years approximately 100 people have been convicted of various crimes committed in Gujrat riots of 2002, with punishments ranging from minor monetary fines to life imprisonment and more than 100 individuals have been acquitted because of lack of evidence, witnesses refusing to testify or the death of witnesses. Additionally, Gujarati police have closed a large number of cases, citing the unavailability of witnesses.

Notably in the last year, Mayaben Kodnani, the former Minister for Women and Child Welfare, was sentenced to 28 years in jail for her involvement in the Gujarat violence and Amit Shah, a close confident of Mr. Narendra Modi was arrested and prosecuted.

28- In early February 2012, the Gujarat High Court strongly chastised the Gujarat government and Chief Minister Modi for "inaction and negligence" during the violence. The court has also ordered the government to pay compensation for over 500 houses and businesses places that were destroyed during the violence.

29- Since July and September 2011, after terrorist attacks in Mumbai and New Delhi respectively, there have been reports of increased police harassment and detentions of Muslims on unfounded allegations of terrorist activities and membership in terrorist groups. For example, in a July 2012 report, the Tata Institute of Social Sciences (TISS) found that 96% of Muslims in jails in the State of Maharashtra are not linked to criminal gangs or terrorist groups, despite being detained on those allegations. Additionally, the report noted that 25% of those Muslims in jail do not have lawyers. The report also found that most prisoners were detained by police with just mere allegations of criminal or terrorist activities without any cogent evidence.

30- Recent communal riots in Muzaffar Nagar have also shattered the confidence of Muslims of the area on the impartiality of District and police administration and rule of law. The said confidence can be restored only when effective steps are taken for relief and rehabilitation work and strict action is taken against the culprits. The announcements made by the Chief Minister and Prime Minister, if implemented in a sincere manner, may help to remove the anger and annoyance of the Muslims. However, the situation in India is much more satisfactory than other democratic countries of the world where Muslims are in minority.

September 18, 2013

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رابطة العالم الإسلامي

مكة المكرمة – المملكة العربية السعودية

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